

What is the surprise in passing surprise medical billing legislation?

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Prices paid to in and out-of-network anesthesiologists in hospital outpatient departments and ambulatory surgery centers decreased after surprise billing legislation was introduced in several states, according to a

new study from Columbia University Mailman School of Public Health and Weill Cornell Medical College. Until now little was known about how state laws influence out-of-network prices and whether spillovers existed to in-network prices. The findings are published online in *JAMA Internal Medicine*.

In late 2020 Congress passed the No Surprises Act to protect consumers from surprise medical bills, which occur when a patient unknowingly receives care from an out-of-network provider at an in-network facility. In addition to protecting patients from financial liability for surprise [medical bills](#), the law also established a method for determining payments made by a patient's insurer to the out-of-network provider. Anesthesiology is one of the specialties with the highest proportion of potential surprise bills since patients do not usually choose their anesthesiologist.

"While the surprise billing laws passed by states share several similarities, they differ most in their methods for determining [prices](#) paid to providers for out-of-network services," said Ambar La Forgia, Ph.D., assistant professor of health policy and management at Columbia Mailman School of Public Health, and first author. "Some states, such as California and Florida tied provider payments to median in-network rates, Medicare rates or the usual and customary provider charges, while other states, such as New York, developed an independent dispute resolution process, which uses a third-party arbiter to resolve payment disputes between insurers and providers."

The researchers analyzed price changes from before to after the passage of legislation in California, Florida, and New York between 2014 and 2017 compared to 45 states that did not pass surprise billing laws. To calculate prices paid to the anesthesiologists the authors analyzed data from 2,713,913 patient claims from the Health Care Cost Institute (HCCI) which includes claims from Aetna, UnitedHealthcare and

Humana.

After a state's surprise billing law went into effect, the unit price—allowed amounts standardized per unit of service—paid to out-of-network anesthesiologists at in-network facilities decreased by -\$12.71 (14%) in California, and by -\$35.67 (17%) in Florida. In New York, the price initially increased after the surprise billing law was passed, but by the last quarter of 2017 declined by \$-41.28. In-network prices decreased by \$-10.68 (11%), -3.81 (3%), and \$-8.05 (7%), in California, Florida and New York, respectively.

"These price declines show that state surprise billing laws both directly lower out-of-network prices and indirectly lower in-network prices, providing evidence that surprise billing legislation may have changed provider-payer negotiating dynamics," noted La Forgia. Currently, the interim final rule on the No Surprises Act suggests providers and insurers will negotiate out-of-network prices and disputes will be resolved through arbitration, similar to New York, but specifics on how arbiters should determine a fair price are still being decided, she noted. "Going forward, this research informs how the No Surprises Act could influence in and out-of-network prices depending on which payment rules are implemented and how a fair price is defined."

Provided by Columbia University's Mailman School of Public Health

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